The opinion in support of the decision being entered today is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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Ex parte FRANCISCUS CORNELIS CARIS,
FREDERIK EKKEL, AND THOMAS JAMES DUBIL

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Appeal 2007-1497
Application 09/653,784
Technology Center 2100

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Decided: September 21, 2007

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Before KENNETH W. HAIRSTON, JAY P. LUCAS,

and MARC S. HOFF, *Administrative Patent Judges*.

HAIRSTON, *Administrative Patent Judge*.

DECISION ON APPEAL

Appellants appeal under 35 U.S.C. § 134 from a final rejection

of claims 1 to 3, 7 to 12, 14 to 16, and 19 to 25. We have jurisdiction under

35 U.S.C. § 6(b).

We will sustain the rejection.

STATEMENT OF THE CASE

Appellants have invented a method and system for enabling a user to program a remote control device for use with consumer electronics equipment. An appliance (e.g., a set top box) is connected to a dedicated server on a network via use of the remote control device. After the connection is made, the server makes a request for alphanumeric information corresponding to the consumer electronic equipment. The alphanumeric information reflects the type, the version, and the brand of consumer electronics equipment at the user's site. The alphanumeric information supplied to the server is subjected to a query to match the alphanumeric information with alphanumeric information stored in a data repository. When a match is found between the alphanumeric information supplied to the server and the stored information, the server downloads to the appliance data representative of a control code that is programmed into the remote control device to control the consumer electronics equipment (Figure 1; Specification 7).

Claim 1 is representative of the claims on appeal, and it reads as follows:

1. A method of enabling a particular user to program the particular user's remote control device for use with the particular user's consumer electronics equipment, the method comprising:

a) connecting a network connectable appliance to a dedicated server on the network in response to the particular user controlling the particular user's remote control device;

b) requesting, by the dedicated server via the network connectable appliance, alphanumeric information from the particular user, corresponding

2

to the particular user's consumer electronics equipment, wherein said dedicated server request is made to said network connectable appliance responsive to said connection at said act (a);

c) supplying, from the particular user to the dedicated server, via the network connectable appliance, the requested alphanumeric information, corresponding to the particular user's consumer electronics equipment;

d) performing a query, at the dedicated server, based on the alphanumeric information supplied by the particular user, to match the alphanumeric information supplied by the particular user with alphanumeric information stored in a data repository, wherein the data repository relates types, versions and brands of consumer electronics equipment to their respective control codes;

e) downloading, from the dedicated server to the network connectable appliance, data representative of at least one control code, wherein said data matches the alphanumeric information supplied by the particular user for use with the particular user's consumer electronics equipment; and

f) programming the particular user's remote control device according to the downloaded data representative of at least one control code, via the network connectable appliance.

The prior art relied upon by the Examiner in rejecting the claims on appeal is:

Goldstein	US 5,410,326	Apr. 25, 1995
LaRocca	US 6,314,572 B1	Nov. 6, 2001
		(filed May 28, 1999)

Lea	US 6,477,573 B1	Nov. 5, 2002
		(filed Apr. 9, 1999)
Harrison	US 6,490,726 B2	Dec. 3, 2002
		(filed Mar. 23, 1998)

The Examiner rejected claims 1 to 3 and 20 to 22 under 35 U.S.C. § 103(a) based upon the teachings of Goldstein and Lea. The Examiner rejected claims 7 to 12, 14 to 16, 19, 23, and 24 under 35 U.S.C. § 103(a) based upon the teachings of Goldstein, Lea, and LaRocca. The Examiner rejected claim 25 under 35 U.S.C. § 103(a) based upon the teachings of Goldstein, Lea, and Harrison.

Appellants contend that the applied references neither teach nor would have suggested to one of ordinary skill in the art the claim 1 method steps of "connecting a network connectable appliance to a dedicated server on the network," and "performing a query, at the dedicated server, based on the alphanumeric information supplied by the particular user" to match the information supplied by the user with information stored in a data repository (Br. 6 to 8). Appellants also contend that the applied references lack a "user profile associated with the remote control device," and "'a data repository comprising a plurality of user profiles'" set forth in claim 7 (Br. 9 and 10).

ISSUE

Are the claims on appeal rendered patentable by virtue of programming the universal remote via a download of control codes from a dedicated server as opposed to programming a universal remote via a download of control codes from a dedicated central database?

FINDINGS OF FACT

Although Appellants' disclosure places the dedicated server in an Internet environment, the independent claims on appeal are not limited to such an environment (Figures 1 and 2; Specification 7 and 9).

With respect to the claimed "user profile," neither Appellants' disclosure nor the claims on appeal specify what exactly is encompassed by or included in a "user profile" (Specification 4 and 5).

Goldstein describes a method of enabling a user to program a remote control device (col. 17, ll. 16 to 19). A cable converter 6 (i.e., a set-top box/appliance) connects the user of the remote to a dedicated database 111 that stores "codes for operating appliances manufactured by various manufacturers" (col. 15, ll. 20 to 25). In response to a request from the dedicated database, the user of the remote enters alphanumeric information about the consumer equipment via the touch pad of the telephone[1] or a keypad on the remote control (col. 15, ll. 41 to 45; col. 33, ll. 35 to 40). The alphanumeric information is supplied to the dedicated database via the cable converter appliance. The dedicated database performs a query based on the supplied alphanumeric information to match the alphanumeric information with alphanumeric equipment information stored on an equipment list 116 in the data repository at the dedicated database 111. The noted stored equipment information relates the types, versions, and brands of equipment to their respective control codes (col. 15, ll. 41 to 53). After a match is found in the database repository of the dedicated database, control code data for the equipment is downloaded to the remote control via the cable

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[1] The touch pad on a telephone represents both alphabets and numbers.

5

converter appliance to program the user's remote control for operation with the noted piece of equipment (col. 15, ll. 53 to 68).

Lea[2] was cited by the Examiner for a teaching of "a registry serving as directory service for a consumer electronic network" (Answer 5 and 6).

LaRocca was cited by the Examiner for a teaching of "storing a subscriber/consumer profile[3] and billing information in a database (154) of a customer management system (150), database 154 containing specific customer subscription information pertaining to a customer's type of services (col. 5/lines 27-41 and base subscription col 9/lines 52-65)" (Answer 8).

Harrison was cited by the Examiner for a teaching of "connecting a cable television converter box (appliance) to a service provider (server) over a network in response to a user controlling a remote control device, where the network is the Internet" (Answer 11).

PRINCIPLES OF LAW

The Examiner bears the initial burden of presenting a prima facie case of obviousness. *In re* Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed. Cir. 1992). If that burden is met, then the burden shifts to the Appellants to overcome the prima facie case with argument and/or evidence. *See Id.*

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[2] The data repository and querying teachings of Lea are merely cumulative to teachings already found in Goldstein.

[3] The claimed "user profile" is broad enough to read on the user's consumer profile described in LaRocca and the remote control user's purchasing activity in Goldstein (col. 4, ll. 20 to 26; col. 11, ll. 44 to 66; col. 21, ll. 43 to 56; col. 27, ll. 19 to 40; col. 29, ll. 16 to 29).

The Examiner's articulated reasoning in the rejection must possess a rational underpinning to support the legal conclusion of obviousness. *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006).

The claims on appeal should not be confined to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323, 75 USPQ2d 1321, 1334 (Fed. Cir. 2005) (*en banc*). During ex parte prosecution, claims must be interpreted as broadly as their terms reasonably allow since Applicants have the power during the administrative process to amend the claims to avoid the prior art. *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

It would have been reasonably obvious to one of ordinary skill in the art to use more modern electronics in place of an older electronics idea or invention. *Leapfrog Enterprises Inc. v. Fisher-Price Inc.*, 485 F.3d 1157, 1161, 82 USPQ2d 1687, 1691 (Fed. Cir. 2007).

ANALYSIS

Our analysis of the teachings of Goldstein reveals that the Examiner has set forth a reasonable comparison of the teachings of Goldstein with the limitations of the claimed invention (Answer 4 and 5).

We agree with the Examiner that the claimed term "appliance" should be given a broadest reasonable interpretation since such a term reads on several devices in the disclosed and claimed network and reads on the cable converter described by Goldstein.

With respect to the claimed dedicated server claimed by Appellants versus the dedicated database 111 described by Goldstein, we find that they perform the same function in substantially the same way. Thus, in keeping

with *Leapfrog*, it would have been manifestly obvious to the skilled artisan to adapt the database technology found in Goldstein to more modern Internet server technology.

In view of the lack of a specific definition of the term "user profile" in Appellants' disclosure, we find that it broadly relates to the equipment[4] that the user seeks to control via the remote control code programmed therein. As indicated *supra*, Goldstein requests control codes from equipment list 116 for the equipment that the user seeks to control with the remote control.

CONCLUSION OF LAW

The Examiner has established the obviousness of claims 1 and 7. The obviousness of claims 2, 3, 8 to 12, 14 to 16, and 19 to 25 has been established by the Examiner because Appellants have not presented any patentability arguments for these claims apart from the arguments presented for claims 1 and 7.

ORDER

The obviousness rejections of claims 1 to 3, 7 to 12, 14 to 16, and 19 to 25 are affirmed.

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[4] Appellants' disclosure links the "user profile" to the equipment and the control codes needed by the remote control for control of the equipment (Specification 4 and 5).

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a)(1)(iv).

AFFIRMED

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